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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,091	12/21/2001	Robert E. Denman	22171.300	1063
27683	7590	11/01/2005	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			HARPER, KEVIN C	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/028,091	<b>Applicant(s)</b> DENMAN ET AL.	
	<b>Examiner</b> Kevin C. Harper	<b>Art Unit</b> 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 16 is/are rejected.
- 7) ☒ Claim(s) 6-15 and 17-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Objections***

1. Claim 2 is objected to because it lacks a period.
  2. Claim 5 is objected to because it contains two periods.
  3. Claims 22 and 24-26 are objected to because they lack antecedent basis for “presence server” and/or “SIP Registrar” and appear to be dependent upon claim 17 instead of claim 16.
- Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 5 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Maggenti et al. (US 2002/0037735).

4. Regarding claims 5 and 16, Maggenti discloses a method for user activation of push-to-talk service in a wireless network (fig. 1) comprising initiating a session with a PTT server wherein a user joins a group (para. 69, last four lines; para. 8, lines three lines), registering a contact for the user (para. 102, lines 3-4) and notifying members of the group of the other members' presence (para. 102, lines 5-10; para. 104, lines 5-7). Further regarding claim 16, the method is implemented by a computer program stored in a computer readable medium (para. 47, lines 3-6; note: software).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggenti et al. (US 2002/0037735) in view of Mattaway et al. (US 6,009,469).

5. Regarding claim 1, Maggenti discloses a wireless communication network having push-to-talk functionality (fig. 1, para. 12). The network comprises a presence server to store data on active mobile devices (fig. 3, item 244), an SIP server (item 236), an SIP location server to store contact addresses of the active mobile devices (item 240; para. 47, lines 6-10; para. 186, lines 1-7), and a PTT server (item 240; para. 47, lines 6-10) to function as a call endpoint for the mobile devices where the devices are segmented into groups (para. 31, last 4; para. 32, lines 5), where the PTT server multicasts a communication from one member of a group to other members of the group (para. 77).

Art Unit: 2666

6. However, Maggenti does not disclose separate servers. Mattaway discloses that logical server functions reside on separate servers (figs. 15a-15b, item 1500; col. 21, lines 51-62).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have separate servers for the functions of the communications manager (fig. 3) in the invention of Maggenti in order to provide a server dedicated to each individual function (Mattaway, col. 21, lines 54-57).

7. Further, Maggenti in view of Mattaway does not disclose separate servers interconnected by an IP network. However, Maggenti discloses network components interconnected by an IP network (fig. 1, item 26). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have an IP network interconnecting servers in the invention of Maggenti in view of Mattaway in order to provide a well known and widely used communications protocol for the transfer of data (Maggenti, para. 42, lines 9-13).

8. Regarding claim 2, in Maggenti the PTT server includes a signaling plane component (fig. 2, item 128) and a media plane component (item 124).

9. Regarding claim 3, in Maggenti the network includes a subscriber database (fig. 3, item 232; para. 89).

10. Regarding claim 4, in Maggenti the network includes a radio access network (fig. 1, item 28).

#### ***Allowable Subject Matter***


11. Claims 6-15 and 16-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 571-272-3174. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin C. Harper

October 29, 2005